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Attorneys for the United States of America

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

UNITED STATES OF AMERICA *ex*  
*rel.* [UNDER SEAL],

Plaintiff[s],

v.

[UNDER SEAL],

Defendant[s].

No. CV 18-08311-ODW-ASx

STIPULATION REQUESTING ORDER  
PARTIALLY LIFTING THE SEAL

**[FILED UNDER SEAL PURSUANT TO  
THE FALSE CLAIMS ACT, 31 U.S.C.  
§§ 3730(b)(2) AND (3)]**

[LODGED CONCURRENTLY UNDER  
SEAL: [PROPOSED] ORDER  
PARTIALLY LIFTING SEAL]

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9 UNITED STATES DISTRICT COURT  
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
11 WESTERN DIVISION

12 UNITED STATES OF AMERICA ex  
rel. IONM LLC, a Delaware corporation;  
13 STATE OF CALIFORNIA ex rel. IONM  
LLC, a Delaware corporation, and LOS  
14 ANGELES COUNTY ex rel. IONM  
LLC, a Delaware corporation,

15 Plaintiffs,

16 v.

17 UNIVERSITY OF SOUTHERN  
18 CALIFORNIA, a California corporation,

19 Defendant.

No. CV 18-08311-ODW-ASx

STIPULATION REQUESTING ORDER  
PARTIALLY LIFTING THE SEAL

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THE FALSE CLAIMS ACT, 31 U.S.C.  
§§ 3730(b)(2) AND (3)]**

[LODGED CONCURRENTLY UNDER  
SEAL: [PROPOSED] ORDER  
PARTIALLY LIFTING SEAL]

1 IT IS HEREBY STIPULATED AND AGREED by and among qui tam plaintiff  
2 IONM LLC (“Relator”), the United States of America (“United States”), the State of  
3 California (“California”), and Los Angeles County, by their respective attorneys of  
4 record and subject to the approval of the Court, that:

- 5 1. On or about September 26, 2018, the Relator filed a *qui tam* Complaint (the  
6 “Complaint”) in the above-captioned action (“this action”) against  
7 defendant University of Southern California (“USC”) under the False  
8 Claims Act, 31 U.S.C. §§ 3729-3733.
- 9 2. The Complaint, which currently remains under seal pursuant to 31 U.S.C.  
10 § 3730(b), alleges that (A) USC’s Keck Medical Center (“Keck”) submitted  
11 claims to the United States and California, seeking payment for monitoring  
12 procedures that purportedly took place at the Division of Intraoperative  
13 Neurophysiological Monitoring (“IONM”) at Keck’s Department of  
14 Neurology; and (B) the claims were false because the IONM procedures  
15 were performed inadequately;
- 16 3. Since being served with the Complaint, the United States and California  
17 (together, the “Governments”) have been investigating the allegations set  
18 forth therein;
- 19 4. Based on information received as a result of the Governments’  
20 investigation, the Governments and Relator (A) have agreed that disclosure  
21 of the allegations of the Complaint to USC may help expedite the  
22 conclusion of the Governments’ investigation and the resolution of this qui  
23 tam action; and (B) stipulate and request that the statutory seal applicable to  
24 this action be partially lifted to the following extent only:  
25 A. The United States may, in its discretion, disclose to USC and its counsel  
26 the existence of this action, any of the allegations of the Complaint (and  
27 any subsequently-filed amended Complaint filed in this action), and may  
28

1 in its discretion provide USC with any of the Complaint(s) filed in this  
2 action, redacted or not, at the United States' discretion, and a copy of the  
3 Court's Order Partially Lifting Seal (the "Order");

4 B. Except as expressly modified by the Order, this action and all pleadings  
5 and papers filed or lodged in this action shall remain under seal; and

6 C. USC need not and shall not respond to the Complaint (or any  
7 subsequently-filed amended Complaint filed in this action) unless and  
8 until such complaint is unsealed and served on USC in accordance with  
9 the Federal Rules of Civil Procedure.

10 A proposed Order accompanies this Stipulation.<sup>1</sup>

11 Respectfully submitted,

12 Dated: May 28, 2020

COTCHETT, PITRE & McCARTHY, LLP

13  
14   
JUSTIN T. BERGER

15 Attorneys for Relator

16  
17 Dated: May \_\_\_, 2020

CALIFORNIA ATTORNEY GENERAL  
BUREAU OF MEDI-CAL FRAUD AND  
ELDER ABUSE

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20 \_\_\_\_\_  
JOHN FISHER

21 Attorneys for the State of California

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28 <sup>1</sup> Federal Rule of Civil Procedure 5(a) does not require this Stipulation or the [Proposed]  
Order lodged herewith to be served upon the Relator, California or Los Angeles County.

1 in its discretion provide USC with any of the Complaint(s) filed in this  
2 action, redacted or not, at the United States' discretion, and a copy of the  
3 Court's Order Partially Lifting Seal (the "Order");

4 B. Except as expressly modified by the Order, this action and all pleadings  
5 and papers filed or lodged in this action shall remain under seal; and

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11 Respectfully submitted,

12 Dated: May \_\_\_\_, 2020

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15 Attorneys for Relator

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26 <sup>1</sup> Federal Rule of Civil Procedure 5(a) does not require this Stipulation or the  
27 [Proposed] Order lodged herewith to be served upon the Relator, California or Los  
28 Angeles County.

1 Dated: June 2, 2020

LOS ANGELES COUNTY  
DISTRICT ATTORNEY'S OFFICE

2  
3 

4 MARC BEAART  
5 Head Deputy,  
6 Healthcare Insurance Fraud Division

7 Attorneys for Los Angeles County

8 Dated: June \_\_\_, 2020

CALIFORNIA DEPARTMENT OF INSURANCE  
FRAUD LIASON BUREAU

9  
10 \_\_\_\_\_  
11 MITCHELL NEUMEISTER

12 Attorneys for the State of California

13 Dated: June \_\_\_, 2020

14 NICOLA T. HANNA  
15 United States Attorney  
16 DAVID K. BARRETT  
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7 Dated: June 2, 2020


CALIFORNIA DEPARTMENT OF INSURANCE  
FRAUD LIASON BUREAU

8  
9   
10 MITCHELL NEUMEISTER

11 Attorneys for the State of California

12  
13 Dated: June 3, 2020

NICOLA T. HANNA  
United States Attorney  
14 DAVID K. BARRETT  
15 Assistant United States Attorney  
16 Chief, Civil Fraud Section

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18 FRANK D. KORTUM  
19 Assistant United States Attorney

20 Attorneys for the  
21 United States of America  
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DECLARATION RE: LACK OF NECESSITY FOR PROOF OF SERVICE

I, Frank D. Kortum, declare:

1. I am the Assistant United States Attorney who has been assigned responsibility for handling the above-captioned action. I am a member of the Bar of the State of California, and I have been duly admitted to appear before this Court. The following is based on my personal knowledge.

2. I have examined Federal Rule of Civil Procedure (“Rule”) 5(a), which provides as follows:

(a) Service: When Required.

(1) In General. Unless these rules provide otherwise, each of the following papers must be served on every party:

(A) an order stating that service is required;

(B) a pleading filed after the original complaint, unless the court orders otherwise under Rule 5(c) because there are numerous defendants;

(C) a discovery paper required to be served on a party, unless the court orders otherwise;

(D) a written motion, except one that may be heard ex parte; and

(E) a written notice, appearance, demand, or offer of judgment, or any similar paper.

(2) If a Party Fails to Appear. No service is required on a party who is in default for failing to appear. But a pleading that asserts a new claim for relief against such a party must be served on that party under Rule 4.

(3) Seizing Property. If an action is begun by seizing property and no person is or need be named as a defendant, any service required before the filing of an appearance, answer, or claim must be made on the person who



1 had custody or possession of the property when it was seized.

2 The list of documents set forth in Rule 5(a)(1) does not include the document to  
3 which this Declaration is attached. The said document also is not a pleading that asserts  
4 “a new claim for relief” against any “party who is in default for failing to appear.” (Rule  
5 5(a)(2).) Nor was the above-captioned action “begun by seizing property.” (Rule  
6 5(a)(3).) Therefore, I believe that Rule 5(a) does not require the document to which this  
7 Declaration is attached to be served upon any party that has appeared in the above-  
8 captioned action.

9 I declare under penalty of perjury that the foregoing is true and correct.

10 Executed on June 3, 2020, at Los Angeles, California.

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13 FRANK D. KORTUM